

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
CARL REID, <i>et al.</i> ,	:	
	:	Case Nos. 14-40218 (CEC)
	:	14-40216 (CEC)
	:	
Debtor.	:	
-----X	:	

DECLARATION OF WILLIAM E. CURTIN

Pursuant to 28 U.S.C. § 1746, William E. Curtin declares as follows:

1. I am a trial attorney in the Office of the United States Trustee for Region 2. In that capacity, I have knowledge and information about the chapter 11 bankruptcy cases of Carl Reid, *et al.* I submit this Declaration in support of the Motion of the United States Trustee to Convert these Chapter 11 Cases to Chapter 7 or, in the alternative, Dismiss these Cases pursuant to 11 U.S.C. § 1112 (the “Motion”).

Procedural History

2. On January 21, 2014 (the “Petition Date”), Reid commenced his case by filing, *pro se*, a voluntary petition for relief under chapter 13 of the Bankruptcy Code. ECF Doc. No. 1.

3. On February 12, 2014, The Law Offices of Jeremy S. Sussman, Esq. (“Sussman” or “Counsel”) filed a notice of appearance as counsel to Reid. ECF Doc. No. 19.

4. On January 21, 2014, Wyona commenced its case by filing, *pro se*, a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Case No. 14-40216, ECF Doc. No. 1.

5. On February 12, 2014, Sussman filed a notice of appearance as counsel to Wyona. Case No. 14-40216, ECF Doc. No. 1.

6. By Order dated March 21, 2014, the Court granted Reid's motion to convert his case to chapter 11. ECF Doc. No. 24.

7. By Order dated March 21, 2014, the Court authorized joint administration of the Debtors' cases. ECF Doc. No. 20.

8. The United States Trustee was unable to form an unsecured creditors' committee in either of the Debtors' cases.

9. The United States Trustee has not appointed a trustee, and the Debtors remain in control and possession of their assets as debtors-in-possession.

Reid Scheduled Assets and Liabilities

10. On the Petition Date, Reid purported to own three parcels of real property (the "Reid Properties") located at 60 Argow Place, Nanuet, NY 10854 (the "Nanuet Property"), 117-04 Van Wyck Expressway, South Ozone Park, NY 11420 (the "Van Wyck Property") and 15/17 Wyona Street, Brooklyn, NY 11207 (the "Wyona Street Property"). ECF Doc. No. 36, Schedule A. The Debtor scheduled the Nanuet Property with a value of \$370,000.00, the Van Wyck Property with a value of \$250,000.00 and the Wyona Street property with a value of \$200,000.00. Id.

11. Reid scheduled secured claims encumbering the Reid Properties in the aggregate amount of \$3,075,586.57. ECF Doc. No. 36, Schedule D. The secured debt encumbering each of the Reid Properties exceeded the scheduled value of each property. Id.

12. Reid scheduled personal property with an aggregate value of \$12,346.00. ECF Doc. No. 36, Schedule B.

13. Reid scheduled one priority unsecured creditor with aggregate claim of \$9,825.40 and general unsecured creditors with an aggregate of \$224,633.82 in claims. ECF Doc. No. 36, Schedules E and F.

Wyona Scheduled Assets and Liabilities

14. On the Petition Date, Wyona purported to own one parcel of real property located at 4 Arlington Avenue, Brooklyn, NY 11207 (the “Arlington Property”). Case No. 14-40216, ECF Doc. No. 18, Schedule A. Wyona scheduled the Arlington Property with a value of \$400,000.00, and secured claims in the aggregate amount of \$1,801,272.21. Id.

15. Wyona scheduled no personal property. ECF Doc. No. 18, Schedule B.

16. Wyona scheduled no priority unsecured claims and general unsecured creditors with an aggregate of \$25,433.97 in claims. ECF No. 36, Schedules E and F.

Claims

17. By Order dated August 6, 2014, the Court established September 17, 2014 as the last day for filing proofs of claim against the Debtors. ECF Doc. No. 74.

18. To date, the Claims Register contains thirteen claims filed against the Debtors. See Claims Register, Claim Nos. 1-13.

Deficiencies in Debtors’ Cases

19. On January 23, 2014 and March 24, 2014, the United States Trustee sent the Debtors letters enclosing copies of the United States Trustee Operating Guidelines (the “Guidelines”). The Guidelines outline the requirements for debtors-in-possession, including the obligation to file monthly operating reports, pay quarterly fees, file tax returns and provide copies to the United States Trustee and remain current on post-petition tax obligations.

20. On April 8, 2014, the United States Trustee held an Initial Debtor Interview (the “Initial Debtor Interview”) in the Debtors’ cases. The Debtors attended the Initial Debtor Interview and were advised of the Guidelines, including the obligation to timely file monthly operating reports, pay quarterly fees, file tax returns and provide copies to the United States Trustee and remain current on post-petition tax obligations.

21. On April 28, 2014, the United States Trustee held a meeting of creditors pursuant to 11 U.S.C. § 341 (the “Meeting of Creditors”) in the Debtors’ cases. The Debtors attended the Meeting of Creditors and were advised of the Guidelines, including the obligation to timely file monthly operating reports, pay quarterly fees, file tax returns and provide copies to the United States Trustee and remain current on post-petition tax obligations.

22. Wyona has not filed an operating report since September 2014, and the October 2014, November 2014, December 2014, January 2015, February 2015 and March 2015 reports are currently past due. Reid has only filed one operating report since his case was converted to chapter 11 over a year ago. *Id.* The April 2014, May 2014, June 2014, July 2014, August 2014, September 2014, October 2014, November 2014, December 2014, January 2015, February 2015 and March 2015 reports are currently past due. Operating reports that were filed in the cases were consistently late and provided little information.

23. Both Debtors are currently delinquent on the payment of quarterly fees to the Office of the United States Trustee. See 11 U.S.C. § 1930. Wyona owes an estimated amount of \$5,854.10 and Reid owes an estimated amount of \$650.¹

¹ Both of these estimated amounts are the lowest possible amount due because they are based upon the lowest quarterly fee billing level of \$325.00 per quarter, with the exception of the fourth quarter of 2014 for Wyona, which is estimated at \$4,875.00 based upon the disbursements made at or shortly after the closing of the sale of the Arlington Property. Although not properly reported by the Debtor, these disbursements are in the Court record. ECF Doc. No. 111, ¶ 6. If the Debtor files the missing operating reports and disbursements for either Debtor are higher than \$15,000.00 per quarter, the amount due will increase.

24. The Debtors have failed to provide the United States Trustee with copies of 2013 tax returns for Reid and 2012 and 2013 tax returns for Wyona.

25. Reid has failed to remain current on post-petition real estate taxes on the Wyona Property and owes approximately \$7,342.13 in post-petition taxes. See Ex. A.

The Sale of the Arlington Property

26. By Order dated September 29, 2014, the Court authorized the Debtors to sell the Arlington property, pursuant to 11 U.S.C. § 363(b), at an auction on October 22, 2014. ECF Doc. No. 89.

27. The Arlington Property was sold to a third party for \$775,000.00. ECF Doc. No. 93. The sale was approved by the Court on November 19, 2014 and closed on December 16, 2014. ECF Doc. Nos. 98 and 111.

I declare under penalty of perjury that, to the best of my knowledge, the information contained in this Declaration is true and correct, to the best of my knowledge.

Dated: New York, New York
April 20, 2015

/s/ William E. Curtin
William E. Curtin